



# Buddy

**Course Booking Terms & Conditions**



Buddy, The Atrium, Curtis Road, Dorking, Surrey RH4 1XA

## 1. DEFINITIONS AND INTERPRETATION

1.1. In these Terms & Conditions the following definitions apply:

"**Booking Provider**" means the website owned and operated by such booking provider.

"**Bribery Laws**" means the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption and any similar or equivalent legislation in any other relevant jurisdiction;

"**Business Day**" means a day other than a Saturday, Sunday or bank or public holiday;

"**Confidential Information**" means any information relating to the Training Services, the Course Materials, lesson plans, unpublished marketing materials of a confidential nature, commercial information, financial information or technical information relating to Buddy, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by the Client in performing its obligations under, or otherwise pursuant to the Contract;

"**Contract**" means the agreement between Buddy and the Client for the provision of the Training Services by Buddy to the Client incorporating these Terms & Conditions and the Order;

"**Control**" means the beneficial ownership of more than 50% of the issued share capital of a company or the legal power to direct or cause the direction of the management of the company;

"**Controller**" shall have the meaning given in applicable Data Protection Laws from time to time;

"**Client**" means the person who purchases the Training Services from Buddy and whose details are set out in the Order;

"**Course**" means a course supplied to the Client or the Client's employees as part of the Training Services;

"**Course Materials**" means written materials supplied to the Client in connection with a Course;

"**Data Protection Laws**" means, as binding on either party or the Training Services:

- (a) The GDPR;
- (b) The Data Protection Act 2018;
- (c) Any laws which implement any such laws; and
- (d) Any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

"**Data Subject**" shall have the meaning in applicable Data Protection Laws from time to time;

"**Buddy**" means Fizz Experience Limited trading as Buddy Training, a company incorporated in England (Company Registration Number: 02031289), and whose registered office is situated at The Atrium, Curtis Road, Dorking, Surrey RH4 1XA;

"**Buddy Personnel**" all employees, officers, staff, other workers, agents and consultants of Buddy, its Affiliates and any of their sub-contractors who are engaged in the performance of the Training Services from time to time;

"**Force Majeure**" means an event or sequence of events beyond any party's reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Contract including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; governmental restrictions imposed due to national emergencies; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service, or material required for performance of the Contract; strike, lockout or boycott or other industrial action including strikes or other industrial disputes involving Buddy's or its suppliers' workforce, but excluding the Client's inability to pay or circumstances resulting in the Client's inability to pay;

"**GDPR**" means the General Data Protection Regulation, Regulation (EU) 2016/679;

**"Intellectual Property Rights"** means copyright, patents, know-how, trade secrets, trade marks, trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case:

- (e) Whether registered or not
- (f) Including any applications to protect or register such rights
- (g) Including all renewals and extensions of such rights or applications
- (h) Whether vested, contingent or future
- (i) To which the relevant party is or may be entitled, and
- (j) In whichever part of the world existing;

**"International Organisation"** has the meaning given in the applicable Data Protection Laws from time to time;

**"Invoice"** means an invoice provided to the Client by Buddy in connection with Training Services;

**"Learning Management Provider Portal"** means the system by which a Client may receive online Training Services or webinar Training Services, such system is owned and operated by such learning management provider as may be engaged by Buddy from time to time and is available to the Client via the Buddy Website;

**"Location"** means the any relevant address at which the Training Services are due to be performed and as set out in the Order;

**"Order"** means the Client's order for the Training Services;

**"Personal Data"** has the meaning given in the applicable Data Protection Laws from time to time;

**"Personal Data Breach"** has the meaning given in the applicable Data Protection Laws from time to time;

**"Price"** has the meaning given in clause 3.1;

**"processing"** has the meaning given to it in applicable Data Protection Laws from time to time (and related expressions, including process, processed, processing, and processes shall be construed accordingly);

**"Processor"** has the meaning given to it in applicable Data Protection Laws from time to time;

**"Protected Data"** means Personal Data received from or on behalf of the Client in connection with the performance of Buddy's obligations under the Contract;

**"Qualify From Home Examination"** means the examination provided via the Learning Management Provider Portal upon the completion of the webinar Training Services;

**"Specification"** means the description or specification of the Training Services set out or referred to in the Order;

**"Sub-Processor"** means any agent, subcontractor or other third party (excluding its employees) engaged by Buddy for carrying out any processing activities on behalf of the Client in respect of the Protected Data;

**"Terms & Conditions"** means Buddy's terms and conditions of sale set out in this document;

**"Trade Marks"** means any trade marks owned or operated by Buddy from time to time;

**"Training Services"** means the services set out in the Order and to be supplied by Buddy to the Client; **"VAT"** means value added tax under the Value Added Taxes Act 1994 or any other similar sale or fiscal tax applying to the sale of the Training Services;

**"Website"** means the website owned and operated by Buddy at URL <https://www.getbuddy.co.uk/>

**"White Label Services"** means the provision of the Learning Management Provider Portal to the Client as branded in accordance with the Client's business, and allowing the provision of the Training Services to the Client and the Client's employees.

- 1.2. In these Terms & Conditions, unless the context otherwise requires:
  - 1.2.1. A reference to the Contract includes these Terms & Conditions, the Order, and their respective schedules, appendices and annexes (if any);
  - 1.2.2. Any clause, schedule or other headings in these Terms & Conditions are included for convenience only and shall have no effect on the interpretation of these Terms & Conditions;
  - 1.2.3. A reference to a 'party' means either Buddy or the Client and includes that party's personal representatives, successors and permitted assigns;
  - 1.2.4. A reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
  - 1.2.5. A reference to a 'company' includes any company, corporation or other body corporate, wherever and however incorporated or established;
  - 1.2.6. A reference to a gender includes each other gender;
  - 1.2.7. Words in the singular include the plural and vice versa;
  - 1.2.8. Any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
  - 1.2.9. A reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form;
  - 1.2.10. A reference to legislation is a reference to that legislation as amended, extended, re-enacted or consolidated from time to time except to the extent that any such amendment, extension or re-enactment would increase or alter the liability of a party under the Contract; and
  - 1.2.11. A reference to any English action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than England, be deemed to include a reference to that which most nearly approximates to the English equivalent in that jurisdiction.

## **2. APPLICATION OF THESE TERMS & CONDITIONS**

- 2.1. These Terms & Conditions apply to and form part of the Contract between Buddy and the Client. They supersede any previously issued terms and conditions of purchase or supply.
- 2.2. No terms or conditions endorsed on, delivered with, or contained in any purchase conditions, order, confirmation of order, specification or other document provided by the Client shall form part of the Contract except to the extent that Buddy otherwise agrees in writing.
- 2.3. No variation of these Terms & Conditions or to the Contract, shall be binding unless expressly agreed in writing by Buddy.
- 2.4. In respect of online Training Services supplied to the Client:
  - 2.4.1. The Client may search for online Training Services listed on the Buddy Website;
  - 2.4.2. The Client may submit an Order for online Training Services listed on the Buddy Website;
  - 2.4.3. Upon submitting an Order for online Training Services the Client shall be redirected to the Booking Provider. The Specification is listed via the Booking Provider;
  - 2.4.4. The Client shall complete the transaction in respect of the purchase of the online Training Services via the Booking Provider, and the Client acknowledges that such transaction shall be subject to the Booking Provider's terms & conditions;
  - 2.4.5. The Client shall receive an Order confirmation for the online Training Services via the Booking Provider;
  - 2.4.6. The Client shall receive login details via the Learning Management Provider Portal;

- 2.4.7. The Client shall receive the online Training Services by logging into the Buddy Website to complete the Course;
- 2.4.8. Upon the Client's completion of the Course, the Client shall receive a certificate of completion in connection with the Course in question.
- 2.5. In respect of webinar Training Services and the Qualify From Home Examination supplied to the Client:
  - 2.5.1. The Client may search for webinar Training Services listed on the Buddy Website;
  - 2.5.2. The Client may submit an Order for webinar Training Services listed on the Buddy Website;
  - 2.5.3. Upon submitting an Order for webinar Training Services the Client shall be redirected to the Booking Provider. The Specification is listed via the Booking Provider;
  - 2.5.4. The Client shall complete the transaction in respect of the purchase of the webinar Training Services via the Booking Provider, and the Client acknowledges that such transaction shall be subject to the Booking Provider's terms & conditions;
  - 2.5.5. The Client shall receive an Order confirmation for the webinar Training Services via the Booking Provider;
  - 2.5.6. The Client shall receive login details via the Learning Management Provider Portal;
  - 2.5.7. The Client shall receive the webinar Training Services by logging into the Buddy Website to complete the Course;
  - 2.5.8. The Client may receive the Qualify From Home Examination by logging into the Buddy Website;
  - 2.5.9. Upon the Client's completion of the Course, the Client shall receive a certificate of completion in connection with the Course in question.
- 2.6. In respect of classroom Training Services supplied to the Client:
  - 2.6.1. The Client may search for classroom Training Services listed on the Buddy Website;
  - 2.6.2. The Client may submit an Order for classroom Training Services listed on the Buddy Website;
  - 2.6.3. Upon submitting an Order for classroom Training Services the Client shall be redirected to the Booking Provider. The Specification is listed via the Booking Provider;
  - 2.6.4. The Client shall complete the transaction in respect of the purchase of the classroom Training Services via the Booking Provider, and the Client acknowledges that such transaction shall be subject to the Booking Provider's terms & conditions;
  - 2.6.5. The Client shall receive an Order confirmation for the classroom Training Services via the Booking Provider;
  - 2.6.6. Buddy shall provide the Client with any additional information required by the Client to allow the Client to attend the Course;
  - 2.6.7. The Client shall receive the classroom Training Services by attending the Location to complete the Course;
  - 2.6.8. Upon the Client's completion of the Course, the Client shall receive a certificate of completion in connection with the Course in question.
- 2.7. In respect of bespoke Training Services supplied to the Client:
  - 2.7.1. The Client and Buddy may agree the content of any bespoke Training Services from time to time;
  - 2.7.2. The Client may submit an Order for bespoke Training Services;
  - 2.7.3. Upon submitting an Order for bespoke Training Services the Client shall receive an Order confirmation, a Specification for the bespoke Training Services, and an Invoice for the bespoke Training Services via Buddy;
  - 2.7.4. The Client shall make payment in respect of any Invoice in accordance with clause 4;

- 2.7.5. In respect of online Training Services that form part of the bespoke Training Services, the Client shall receive login details via the Learning Management Provider Portal;
- 2.7.6. In respect of webinar Training Services that form part of the bespoke Training Services, the Client shall receive login details via the Learning Management Provider Portal;
- 2.7.7. In respect of classroom Training Services that form part of the bespoke Training Services, Buddy shall provide the Client with any additional information required by the Client to allow the Client to attend the Course;
- 2.7.8. In respect of online Training Services that form part of the bespoke Training Services, the Client shall receive the online Training Services by logging into the Buddy Website to complete the Course.
- 2.7.9. In respect of webinar Training Services that form part of the bespoke Training Services, the Client shall receive the webinar Training Services by logging into the Buddy Website to complete the Course and the Client may receive the Qualify From Home Examination by logging into the Buddy Website;
- 2.7.10. In respect of classroom Training Services that form part of the bespoke Training Services, the Client shall receive the classroom Training Services by attending the Location to complete the Course;
- 2.7.11. Upon the Client's completion of the Course, the Client shall receive a certificate of completion in connection with the Course in question.
- 2.8. Each Order submitted by the Client via the Buddy Website shall be an offer to purchase the Training Services subject to these Terms & Conditions.
- 2.9. Buddy may accept or reject an Order at its discretion. An Order shall not be accepted, and no binding obligation to supply any Training Services shall arise, until the Client receives:
  - 2.9.1. The Order confirmation for the Training Services via the Booking Provider; or
  - 2.9.2. Buddy's written acceptance of the Order.
- 2.10. Rejection by Buddy of an Order, including any communication that may accompany such rejection, shall not constitute a counter-offer capable of acceptance by the Client.
- 2.11. Buddy may issue quotations to the Client from time to time. Quotations are invitations to treat only. They are not an offer to supply Training Services and are incapable of being accepted by the Client.
- 2.12. Marketing and other promotional material relating to the Training Services are illustrative only and do not form part of the Contract.

### **3. PRICE**

- 3.1. The price for Training Services ("**Price**") shall be as follows:
  - 3.1.1. The price for the online Training Services, webinar Training Services, and classroom Training Services shall be as set out on the Buddy Website and via the Booking Provider;
  - 3.1.2. The price for the bespoke Training Services shall be agreed between the parties and set out in the Specification provided to the Client by Buddy;
  - 3.1.3. The price for multiple online Training Services, multiple webinar Training Services, and multiple classroom Training Services shall be agreed between the parties and set out in the Specification provided to the Client by Buddy.
- 3.2. Any Price agreed between the parties in consideration of any Specification shall be calculated in accordance with Buddy's scale of charges in force from time to time or as advised by Buddy and received and acknowledged by the Client before the date the Order is made.
- 3.3. The Prices are exclusive of VAT.
- 3.4. The Client shall pay any applicable VAT.

- 3.5. Buddy may increase the Prices at any time by giving the Client not less than 15 Business Days' notice in writing.
- 3.6. Notwithstanding clause 3.5, Buddy may increase the Prices with immediate effect by written notice to the Client where there is an increase in the direct cost to Buddy of supplying the relevant Training Services and which is due to any factor beyond the control of Buddy.

#### **4. PAYMENT**

- 4.1. Buddy shall provide the Client with an Invoice or Invoices for the Training Services in accordance with the following:
  - 4.1.1. The Client shall receive an Invoice in advance of the provision of the Training Services;
  - 4.1.2. The Client shall receive Invoices in respect of any staged payments during the provision of the Training Services and as agreed between the parties.
- 4.2. The Client shall pay all Invoices in accordance with the following:
  - 4.2.1. The Invoice received in advance of the provision of the Training Services must be paid by the Client in advance of the provision of the Training Services;
  - 4.2.2. The Invoices received during the provision of the Training Services must be paid by the Client within 10 Business Days of the date of such Invoice;
  - 4.2.3. Any Invoice must be paid by the Client in full without deduction or set-off, in cleared funds and to the bank account nominated by Buddy.
- 4.3. Time of payment is of the essence. Where sums due under these Terms & Conditions are not paid in full by the due date:
  - 4.3.1. Buddy may, without limiting its other rights, charge interest on such sums at 5% a year above the base rate of The Bank of England from time to time in force, and
  - 4.3.2. Interest shall accrue on a daily basis, and apply from the due date for payment until actual payment in full, whether before or after judgment.

#### **5. CREDIT LIMIT**

- 5.1. Buddy may set and vary credit limits from time to time and withhold all further supplies of the Training Services if the Client exceeds such credit limit.

#### **6. DELIVERY AND PERFORMANCE**

- 6.1. In respect of classroom Training Services provided by Buddy:
  - 6.1.1. The classroom Training Services shall be performed by Buddy at the Location on the date (s) specified in the Order.
  - 6.1.2. The classroom Training Services shall be deemed delivered by Buddy only on completion of the performance of the classroom Training Services at the Location.
- 6.2. In respect of online Training Services or webinar Training Services that are to be provided by Buddy:
  - 6.2.1. The online Training Services or webinar Training Services shall be performed by Buddy via the  
Buddy website and as specified in the Order.
  - 6.2.2. The online Training Services or webinar Training Services shall be deemed delivered by Buddy upon the Client gaining access to the online Training Services or the webinar Training Services via the Buddy website.
- 6.3. Buddy may perform the Training Services in instalments. Any delay in performance or defect in an instalment shall not entitle the Client to cancel any other instalment.
- 6.4. Each performance of the Training Services shall be accompanied by a delivery note stating:
  - 6.4.1. The date of the Order;

- 6.4.2. The relevant Customer and Buddy details;
- 6.4.3. The category, type and quantity of Training Services performed; and
- 6.4.4. Any special instructions and other requests.
- 6.5. Time is not of the essence in relation to the performance or delivery of the Training Services. Buddy shall use its reasonable endeavours to meet estimated dates for performance, but any such dates are approximate only.
- 6.6. Buddy shall not be liable for any delay in or failure of performance caused by:
  - 6.6.1. The Client's failure to: (i) provide Buddy with adequate instructions for performance or otherwise relating to the Training Services, (ii) Any late attendance of any Course by the Client and/or the Client's employees, (iii) Any failure by the Client or the Client's employees in attending any Course;
  - 6.6.2. Force Majeure.

**7. GRANT OF LICENCE**

- 7.1. Subject to the terms and conditions of this Agreement, Buddy hereby grants to the Client during the provision of the Training Services or the White Label Services only a non-exclusive non-transferable licence to use the Trade Marks and any Course Materials, more specifically only such Course Materials capable of being the subject of a licence granted by Buddy, in connection with the Client's receipt of the Training Services.
- 7.2. The Client agrees that it shall not:
  - 7.2.1. Use the Trade Marks and the Course Materials in connection with any purpose other than the Client's receipt of the Training Services;
  - 7.2.2. Be entitled to exploit Buddy's Intellectual Property Rights for any purpose outside the scope of these Terms & Conditions or for any purpose which is not connected with the provision of the Training Services;
  - 7.2.3. Register or make any application to register any trade mark, design or other registered right which incorporates any Trade Mark or anything confusingly similar to any Trade Mark;
  - 7.2.4. Use the Trade Marks or the Course Materials in any way which is derogatory, defamatory, indecent or otherwise unlawful or which infringes the statutory or common law rights of any third party or Buddy or its Licensors;
  - 7.2.5. Continue to use the Trade Marks or the Course Materials on expiry or termination of the Contract (whichever is the earlier) and shall destroy all copies of the Course Materials that are within its possession or control and shall certify to Buddy that it has done so; or
  - 7.2.6. Apply to the Course Materials any branding and/or images incorporating the Intellectual Property Rights of third parties.
- 7.3. Buddy and its licensors reserve the right to use and to license others to use the Trade Marks and the Course Materials without recourse or notice to the Client.
- 7.4. The Client shall notify Buddy of any defects in the Course Materials that come to light as a result of complaints or otherwise.

**8. WHITE LABEL SERVICES**

- 8.1. In respect of White Label Services supplied to the Client:
  - 8.1.1. The Client and Buddy may agree the scope of the White Label Services from time to time;
  - 8.1.2. The Client may submit an Order for White Label Services;



- 8.1.3. Upon submitting an Order for White Label Services the Client shall receive an Order confirmation, a Specification for the White Label Services, and an Invoice for the White Label Services via Buddy;
- 8.1.4. The Client shall make payment in respect of any Invoice in accordance with clause 4;
- 8.1.5. In respect of any design services required in connection with the White Label Services:
  - (a) The Client shall provide Buddy with any and all information that Buddy may require to procure the design of the Learning Management Provider Portal branded in accordance with the Client's business;
  - (b) The Client shall grant Buddy and the learning management provider a non-exclusive licence to use the relevant Client trade marks and/or company names and/or logos for the purposes of the design of the Learning Management Provider Portal branded in accordance with the Client's business;
- 8.1.6. In respect of any delivery services required in connection with the White Label Services:
  - (a) The Client shall receive delivery of the White Label Services upon the completion of the design and development by the learning management provider of the Learning Management Provider Portal branded in accordance with the Client's business. For the avoidance of doubt, timescales and milestones in respect of the design and development shall be agreed between the parties on a case by case basis;
  - (b) The Client shall grant Buddy and the learning management provider a non-exclusive licence to use the relevant Client trade marks and/or company names and/or logos for the purposes of the delivery of the Learning Management Provider Portal branded in accordance with the Client's business;
- 8.1.7. The Client shall receive login details from Buddy as soon as is reasonably practicable upon the completion of the design and development by the learning management provider of the Learning Management Provider Portal branded in accordance with the Client's business.
- 8.2. The Client shall not provide access to the Learning Management Provider Portal to any third party that is outside of the Client's business or outside the scope of the White Label Services as agreed between the Parties.
- 8.3. The Client shall:
  - 8.3.1. Ensure that Training Services and Course Materials incorporating or using the Intellectual Property Rights provided to the Client are delivered and implemented by the Client to the Client's employees within the Client's business and to a reasonable standard and quality;
  - 8.3.2. Provide to Buddy such information in relation to the Client's use of the White Label Services, the Training Services, the Course Materials or the Trade Marks as Buddy may reasonably require;
  - 8.3.3. Ensure that the Client complies with any applicable laws, regulations or standards relating to its use of the White Label Services and the provision of the Training Services to the Client's employees;
  - 8.3.4. Obtain at its own expense all licences, permits, consents or other operational documents (including government permits) required by the Client for the Client to provide Training Services to the Client's employees; and
  - 8.3.5. Use reasonable endeavours to promote the White Label Services to third parties.
- 8.4. This Client shall not be entitled to use any of the Trade Marks or the Course Materials for any purpose other than performing its obligations in connection with these Terms & Conditions or in connection with the White Label Services. If the Client wishes to use the Trade Marks or the Course Materials in connection with additional services other than in connection with the White Label Services, it must be authorised by Buddy in writing.

- 8.5. The licences granted to Buddy and the learning management provider by the Client in clauses 8.1.5(b) and 8.1.6(b) shall remain in force during any period in which the Client uses the White Label Services and/or the Learning Management Provider Portal branded in accordance with the Client's business.

## **9. WARRANTY**

- 9.1. Buddy warrants that the Training Services shall:
- 9.1.1. Conform in all material respects to their description and to the Specification;
  - 9.1.2. Be supplied with reasonable care and skill within the meaning of the Supply of Goods and Services Act 1982, Part II, s 13; and
  - 9.1.3. Be fit for purpose and any purpose held out by Buddy.
- 9.2. The Client warrants that:
- 9.2.1. It has provided Buddy with all relevant, full and accurate information as to the Client's business and needs;
  - 9.2.2. It will not engage, entice or solicit any employee, worker, customer, supplier or agent of Buddy during the provision of the Training Services or at any time after the provision of the Training Services.
- 9.3. Buddy shall, at its option, correct, repair, remedy, re-perform or refund the Training Services that do not comply with clause 9, provided that the Client:
- 9.3.1. Serves a written notice on Buddy not later than 5 Business Days from the date of performance;
  - 9.3.2. Such notice specifies that some or all of the Training Services do not comply with clause 9.1 and identifying in sufficient detail the nature and extent of the defects; and
  - 9.3.3. Gives Buddy a reasonable opportunity to examine the claim of the defective Training Services.
- 9.4. The provisions of these Terms & Conditions shall apply to any Training Services that are corrected, remedied or re-performed with effect from the date of performance of those Training Services.
- 9.5. Except as set out in this clause 9:
- 9.5.1. Buddy gives no warranty and makes no representations in relation to the Training Services; and
  - 9.5.2. Shall have no liability for their failure to comply with the warranty in clause 9.1, and all warranties and conditions (including the conditions implied by ss 12-16 of the Supply of Goods and Services Act 1982), whether express or implied by statute, common law or otherwise are excluded to the extent permitted.

## **10. ANTI-BRIBERY**

- 10.1. For the purposes of this clause 10 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 10.2. Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
- 10.2.1. All of that party's personnel;
  - 10.2.2. All others associated with that party; and
  - 10.2.3. All of that party's subcontractors;  
Involved in performing the Contract so comply.
- 10.3. Without limitation to clause 10.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 10.4. Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 10.

## **11. INDEMNITY AND INSURANCE**

- 11.1. The Client shall indemnify, and keep indemnified, Buddy from and against any losses, damages, liability, costs (including legal fees) and expenses incurred by Buddy as a result of or in connection with the Client's breach of any of the Client's obligations under the Contract.
- 11.2. The Client shall have in place contracts of insurance with reputable insurers incorporated in the United Kingdom to cover its obligations under the Contract. On request, the Client shall supply so far as is reasonable evidence of the maintenance of the insurance and all of its terms from time to time applicable.

## **12. LIMITATION OF LIABILITY**

- 12.1. The extent of the parties' liability under or in connection with the Contract (regardless of whether such liability arises in tort, contract or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 12.
- 12.2. Subject to clauses 12.5 and 12.6, Buddy's total liability shall not exceed the value of the relevant Training Services received by the Client in accordance with the Contract.
- 12.3. Subject to clauses 12.5 and 12.6, Buddy shall not be liable for consequential, indirect or special losses.
- 12.4. Subject to clauses 12.5 and 12.6, Buddy shall not be liable for any of the following (whether direct or indirect):
  - 12.4.1. Loss of profit;
  - 12.4.2. Loss or corruption of data;
  - 12.4.3. Loss of use;
  - 12.4.4. Loss of production;
  - 12.4.5. Loss of contract;
  - 12.4.6. Loss of opportunity;
  - 12.4.7. Loss of savings, discount or rebate (whether actual or anticipated);
  - 12.4.8. Harm to reputation or loss of goodwill.
- 12.5. The limitations of liability set out in clauses 12.2 to 12.4 shall not apply in respect of any indemnities given by either party under the Contract.
- 12.6. Notwithstanding any other provision of the Contract, the liability of the parties shall not be limited in any way in respect of the following:
  - 12.6.1. Death or personal injury caused by negligence;
  - 12.6.2. Fraud or fraudulent misrepresentation;
  - 12.6.3. Any other losses which cannot be excluded or limited by applicable law;
  - 12.6.4. Any losses caused by wilful misconduct.

## **13. INTELLECTUAL PROPERTY**

- 13.1. All Intellectual Property Rights arising out of or in connection with the Training Services are owned by Buddy or its licensors.
- 13.2. All Intellectual Property Rights arising out of or in connection with the Course Materials are owned by Buddy or its licensors.
- 13.3. All Intellectual Property Rights arising out of or in connection with the Trade Marks are owned by Buddy or its licensors.
- 13.4. Buddy shall indemnify the Client from and against any losses, damages, liability, costs and expenses (including reasonable professional fees) incurred by it as a result of any action, demand or claim that

use of the Training Services infringes the Intellectual Property Rights of any third party ("**IPR Claim**"), provided that Buddy shall have no such liability if the Client:

- 13.4.1. Does not notify Buddy in writing setting out full details of any IPR Claim of which it has notice as soon as is reasonably possible;
  - 13.4.2. Makes any admission of liability or agrees any settlement or compromise of the relevant IPR Claim without the prior written consent of Buddy;
  - 13.4.3. Does not let Buddy at its request and own expense have the conduct of or settle all negotiations and litigation arising from the IPR Claim at its sole discretion;
  - 13.4.4. Does not take all reasonable steps to minimise the losses that may be incurred by it or by any third party as a result of the IPR Claim;
  - 13.4.5. Does not, at Buddy's request, provide Buddy with all reasonable assistance in relation to the IPR Claim (at the Client's expense) including the provision of prompt access to any relevant premises, officers, employees, contractors or agents of the Client.
- 13.5. If any IPR Claim is made or is reasonably likely to be made, Buddy may at its option:
- 13.5.1. Procure for the Client the right to continue receiving the benefit of the relevant Training Services; or
  - 13.5.2. Modify or replace the infringing part of the Training Services so as to avoid the infringement or alleged infringement, provided the Training Services remain in material conformance to their Specification.
- 13.6. Buddy's obligations under clause 13.4 shall not apply to Training Services modified or used by the Client other than in accordance with the Contract or Buddy's instructions. The Client shall indemnify Buddy against all losses, damages, liability, costs and expenses (including reasonable legal fees) incurred by Buddy in connection with any claim arising from such modification or use.
- 13.7. The Client agrees that any Intellectual Property Rights that arise out of or in connection with the Training Services or the methodologies implemented by Buddy during the provision of the Training Services, including any relevant training methods, shall be kept strictly confidential.

#### **14. CONFIDENTIALITY AND ANNOUNCEMENTS**

- 14.1. The Client shall keep confidential all Confidential Information of Buddy and shall only use the same as required to perform its obligations under the Contract and as permitted to allow the Client to receive the Training Services. The provisions of this clause shall not apply to:
- 14.1.1. Any information which was in the public domain at the date of the Contract;
  - 14.1.2. Any information which comes into the public domain subsequently other than as a consequence of any breach of the Contract or any related agreement;
  - 14.1.3. Any information which is independently developed by the Client without using information supplied by Buddy; or
  - 14.1.4. Any disclosure required by law or a regulatory authority or otherwise by the provisions of the Contract.
- Except that the provisions of clauses 14.1.1 to 14.1.3 shall not apply to information to which clause 15.4 relates.
- 14.2. This clause shall remain in force in perpetuity.
- 14.3. The Client shall not make any public announcement or disclose any information regarding the Contract, except to the extent required by law or regulatory authority.
- 14.4. To the extent any Confidential Information is Protected Data such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with any provisions of clause 15.

## **15. PROCESSING OF PERSONAL DATA**

- 15.1. The parties agree that the Client is a Controller and that Buddy is a Processor for the purposes of processing Protected Data pursuant to the Contract. The Client shall at all times comply with all Data Protection Laws in connection with the processing of Protected Data. The Client shall ensure all instructions given by it to Buddy in respect of Protected Data (including the terms of the Contract) shall at all times be in accordance with Data Protection Laws.
- 15.2. Buddy shall process Protected Data in compliance with the obligations placed on it under Data Protection Laws and the terms of the Contract.
- 15.3. The Client shall indemnify and keep indemnified Buddy against all losses, claims, damages, liabilities, fines, sanctions, interest, penalties, costs, charges, expenses, compensation paid to Data Subjects, demands and legal and other professional costs (calculated on a full indemnity basis and in each case whether or not arising from any investigation by, or imposed by, a supervisory authority) arising out of or in connection with any breach by the Client of its obligations under this clause 15.
- 15.4. Buddy shall:
  - 15.4.1. Only process (and shall ensure Buddy Personnel only process) the Protected Data in accordance with schedule 1 and the Contract (and not otherwise unless alternative processing instructions are agreed between the parties in writing) except where otherwise required by applicable law (and shall inform the Client of that legal requirement before processing, unless applicable law prevents it doing so on important grounds of public interest); and
  - 15.4.2. Without prejudice to clause 15.1, if Buddy believes that any instruction received by it from the Client is likely to infringe the Data Protection Laws it shall promptly inform the Client and be entitled to cease to provide the relevant Training Services until the parties have agreed appropriate amended instructions which are not infringing.
- 15.5. Taking into account the state of technical development and the nature of processing, Buddy shall implement and maintain the technical and organisational measures set out in Part 3 of schedule 1 to protect the Protected Data against accidental, unauthorised or unlawful destruction, loss, alteration, disclosure or access.
- 15.6. Buddy shall:
  - 15.6.1. Not permit any processing of Protected Data by any agent, subcontractor or other third party (except its or its Sub-Processors' own employees in the course of their employment that are subject to an enforceable obligation of confidence with regards to the Protected Data) without the written authorisation of the Client;
  - 15.6.2. Prior to the relevant Sub-Processor carrying out any processing activities in respect of the Protected Data, appoint each Sub-Processor under a written contract containing materially the same obligations as under this clause 16 that is enforceable by Buddy and ensure each such Sub-Processor complies with all such obligations;
  - 15.6.3. Remain fully liable to the Client under the Contract for all the acts and omissions of each Sub-Processor as if they were its own; and
  - 15.6.4. Ensure that all persons authorised by Buddy or any Sub-Processor to process Protected Data are subject to a binding written contractual obligation to keep the Protected Data confidential.
- 15.7. The Client authorises the appointment of the Sub-Processors as may be required by Buddy to carry out its obligations under the Contract, and as listed by Buddy to the Client upon request by the Client.
- 15.8. Buddy shall (at the Client's cost)

- 15.8.1. Assist the Client in ensuring compliance with the Client's obligations pursuant to Articles 32 to 36 of the GDPR (and any similar obligations under applicable Data Protection Laws) taking into account the nature of the processing and the information available to Buddy; and
- 15.8.2. Taking into account the nature of the processing, assist the Client (by appropriate technical and organisational measures), insofar as this is possible, for the fulfilment of the Client's obligations to respond to requests for exercising the Data Subjects' rights under Chapter III of the GDPR (and any similar obligations under applicable Data Protection Laws) in respect of any Protected Data.
- 15.9. Buddy shall not process and/or transfer, or otherwise directly or indirectly disclose, any Protected Data in or to countries outside the United Kingdom or to any International Organisation without the prior written consent of the Client.
- 15.10. Buddy shall, in accordance with Data Protection Laws, make available to the Client such information that is in its possession or control as is necessary to demonstrate Buddy's compliance with the obligations placed on it under this clause 15 and to demonstrate compliance with the obligations on each party imposed by Article 28 of the GDPR (and under any equivalent Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits, including inspections, by the Client (or another auditor mandated by the Client) for this purpose (subject to a maximum of one audit request in any 12 month period under this clause 15.10).
- 15.11. Buddy shall notify the Client without undue delay and in writing on becoming aware of any Personal Data Breach in respect of any Protected Data.
- 15.12. On the end of the provision of the Training Services relating to the processing of Protected Data, at the Client's cost and the Client's option, Buddy shall either return all of the Protected Data to the Client or securely dispose of the Protected Data (and thereafter promptly delete all existing copies of it) except to the extent that any applicable law requires Buddy to store such Protected Data. This clause 15 shall survive termination or expiry of the Contract.

## **16. FORCE MAJEURE**

- 16.1. A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:
  - 16.1.1. Promptly notifies the other of the Force Majeure event and its expected duration; and
  - 16.1.2. Uses best endeavours to minimise the effects of that event.
- 16.2. If, due to Force Majeure, a party:
  - 16.2.1. Is or shall be unable to perform a material obligation; or
  - 16.2.2. Is delayed in or prevented from performing its obligations for a continuous period exceeding 10 Business Days or total of more than 20 Business Days in any consecutive period of 40 Business Days;  
The parties shall, within 20 Business Days, renegotiate the Contract to achieve, as nearly as possible, the original commercial intent.

## **17. TERMINATION**

- 17.1. Buddy may terminate the Contract or any other contract which it has with the Client at any time by giving notice in writing to the Client if:
  - 17.1.1. The Client commits a material breach of the Contract and such breach is not remediable;
  - 17.1.2. The Client commits a material breach of the Contract which is not remedied within 10 Business Days of receiving written notice of such breach;

- 17.1.3. The Client has failed to pay any amount due under the Contract on the due date and such amount remains unpaid within 20 Business Days after Buddy has given notification that the payment is overdue; or
- 17.1.4. Any consent, licence or authorisation held by the Client is revoked or modified such that the Client is no longer able to comply with its obligations under the Contract or receive any benefit to which it is entitled.
- 17.2. Buddy may terminate the Contract at any time by giving notice in writing to the Client if the Client:
  - 17.2.1. Stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
  - 17.2.2. Is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if Buddy reasonably believes that to be the case;
  - 17.2.3. Becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
  - 17.2.4. Has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
  - 17.2.5. Has a resolution passed for its winding up;
  - 17.2.6. Has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
  - 17.2.7. Is subject to any procedure for the taking control of its goods that is not withdrawn or discharged within 5 Business Days of that procedure being commenced;
  - 17.2.8. Has a freezing order made against it;
  - 17.2.9. Is subject to any recovery or attempted recovery of items supplied to it by a supplier retaining title in those items;
  - 17.2.10. Is subject to any events or circumstances analogous to those in clauses 17.2.1 to 17.2.9 in any jurisdiction;
  - 17.2.11. Takes any steps in anticipation of, or has no realistic prospect of avoiding, any of the events or procedures described in clauses 17.2.1 to 17.2.10 including for the avoidance of doubt, but not limited to, giving notice for the convening of any meeting of creditors, issuing an application at court or filing any notice at court, receiving any demand for repayment of lending facilities, or passing any board resolution authorising any steps to be taken to enter into an insolvency process.
- 17.3. Buddy may terminate the Contract at any time by giving not less than 20 Business Days' notice in writing to the Client if the Client undergoes a change of Control or if it is realistically anticipated that it shall undergo a change of Control within two months.
- 17.4. The right of Buddy to terminate the Contract pursuant to clause 17.2 shall not apply to the extent that the relevant procedure is entered into for the purpose of amalgamation, reconstruction or merger (where applicable) where the amalgamated, reconstructed or merged party agrees to adhere to the Contract.
- 17.5. If the Client becomes aware that any event has occurred, or circumstances exist, which may entitle Buddy to terminate the Contract under this clause 17, it shall immediately notify Buddy in writing.
- 17.6. Termination or expiry of the Contract shall not affect any accrued rights and liabilities of Buddy at any time up to the date of termination.

## **18. DISPUTE RESOLUTION**

- 18.1. Any dispute arising between the parties out of or in connection with the Contract shall be dealt with in accordance with the provisions of this clause 18.

- 18.2. The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 18.3. The parties shall use all reasonable endeavours to reach a negotiated resolution through the following procedures:
- 18.3.1. Within 5 Business Days of service of the notice, the account managers of the parties shall meet to discuss the dispute and attempt to resolve it.
- 18.3.2. If the dispute has not been resolved within 5 Business Days of the first meeting of the account managers, then the matter shall be referred to the managing directors (or persons of equivalent seniority). The managing directors (or equivalent) shall meet within 5 Business Days to discuss the dispute and attempt to resolve it.
- 18.4. The specific format for the resolution of the dispute under clause 18.3.1 and, if necessary, clause 18.3.2 shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 18.5. If the dispute has not been resolved within 10 Business Days of the first meeting of the managing directors (or equivalent) under clause 18.3.2 then the matter may be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.
- 18.6. Until the parties have completed the steps referred to in clauses 18.3 and 18.5, and have failed to resolve the dispute, neither party shall commence formal legal proceedings or arbitration except that either party may at any time seek urgent interim relief from the courts or emergency arbitrator relief.

## **19. NOTICES**

- 19.1. Any notice or other communication given by a party under these Terms & Conditions shall:
- 19.1.1. Be in writing and in English;
- 19.1.2. Be signed by, or on behalf of, the party giving it (except for notices sent by e-mail); and
- 19.1.3. Be sent to the relevant party at the address set out in the Contract.
- 19.2. Notices may be given, and are deemed received:
- 19.2.1. By hand: On receipt of a signature at the time of delivery;
- 19.2.2. By Royal Mail Signed post: At 9.00 am on the second Business Day after posting;
- 19.2.3. By Royal Mail International Tracked & Signed post: At 9.00 am on the fourth Business Day after posting; and
- 19.2.4. By fax: On receipt of a transmission report from the correct number confirming uninterrupted and error-free transmission; and
- 19.2.5. By e-mail provided confirmation is sent by first class post: On receipt of a delivery e-mail from the correct address.
- 19.3. Any change to the contact details of a party as set out in the Contract shall be notified to the other party in accordance with clause 19.1 and shall be effective:
- 19.3.1. On the date specified in the notice as being the date of such change; or
- 19.3.2. If no date is so specified, 10 Business Days after the notice is deemed to be received.
- 19.4. All references to time are to the local time at the place of deemed receipt.
- 19.5. This clause does not apply to notices given in legal proceedings or arbitration.

## **20. CUMULATIVE REMEDIES**

- 20.1. The rights and remedies provided in the Contract for Buddy only are cumulative and not exclusive of any rights and remedies provided by law.



**21. TIME**

21.1. Unless stated otherwise, time is of the essence for any date or period specified in the Contract in relation to the Client's obligations only.

**22. FURTHER ASSURANCE**

22.1. The Client shall at the request of Buddy, and at the Client's own cost, do all acts and execute all documents which are necessary to give full effect to the Contract.

**23. ENTIRE AGREEMENT**

23.1. The parties agree that the Contract and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

23.2. Each party acknowledges that it has not entered into the Contract or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Contract or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Contract.

23.3. Nothing in these Terms & Conditions purports to limit or exclude any liability for fraud.

**24. VARIATION**

24.1. No variation of the Contract shall be valid or effective unless it is in writing, refers to the Contract and these Terms & Conditions and updated on the Website and/or is duly signed or executed by, or on behalf of, Buddy.

**25. ASSIGNMENT**

25.1. The Client may not assign, subcontract or encumber any right or obligation under the Contract, in whole or in part, without Buddy's prior written consent, which it may withhold or delay at its absolute discretion.

**26. SET OFF**

26.1. Buddy shall be entitled to set-off under the Contract any liability which it has or any sums which it owes to the Client under the Contract or under any other contract which Buddy has with the Client.

26.2. The Client shall pay all sums that it owes to Buddy under the Contract without any set-off, counterclaim, deduction or withholding of any kind, save as may be required by law.

**27. NO PARTNERSHIP OR AGENCY**

27.1. The parties are independent persons and are not partners, principal and agent or employer and employee and the Contract does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.

**28. EQUITABLE RELIEF**

28.1. The Client recognises that any breach or threatened breach of the Contract may cause Buddy irreparable harm for which damages may not be an adequate remedy. Accordingly, in addition to any other remedies and damages available to Buddy, the Client acknowledges and agrees that Buddy is entitled to

the remedies of specific performance, injunction and other equitable relief without proof of special damages.

**29. SEVERANCE**

- 29.1. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Contract shall not be affected.
- 29.2. If any provision of the Contract (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.

**30. WAIVER**

- 30.1. No failure, delay or omission by Buddy in exercising any right, power or remedy provided by law or under the Contract shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
- 30.2. No single or partial exercise of any right, power or remedy provided by law or under the Contract by Buddy shall prevent any future exercise of it or the exercise of any other right, power or remedy by Buddy.
- 30.3. A waiver of any term, provision, condition or breach of the Contract by Buddy shall only be effective if given in writing and signed by Buddy, and then only in the instance and for the purpose for which it is given.

**31. COMPLIANCE WITH LAW**

- 31.1. The Client shall comply with all laws, enactments, regulations, regulatory policies, guidelines and industry codes applicable to it and shall maintain such authorisations and all other approvals, permits and authorities as are required from time to time to perform its obligations under or in connection with the Contract.

**32. CONFLICTS WITHIN CONTRACT**

- 32.1. If there is a conflict between the terms contained in the Terms & Conditions and any terms contained in the Order, or any terms contained in any third party terms and conditions or agreements applicable to the Client in respect of the subject matter of these Terms & Conditions, including those in connection with the Booking Provider or in connection with the Learning Management Provider Portal, the terms of the Terms & Conditions and Part 1 and Part 2 of schedule 1 shall prevail.

**33. COSTS AND EXPENSES**

- 33.1. The Client shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Contract (and any documents referred to in it).

**34. THIRD PARTY RIGHTS**

- 34.1. A person who is not a party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Contract.

**35. GOVERNING LAW**

- 35.1. The Contract and any dispute or claim arising out of, or in connection with, it, its subject matter or formation (including non-contractual disputes or claims) shall be governed by, and construed in accordance with, the laws of England and Wales.

**36. JURISDICTION**

- 36.1. The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Contract, its subject matter or formation (including non-contractual disputes or claims).

**37. Data processing details**

Processing of the Protected Data by Buddy under the Contract shall be for the subject-matter, duration, nature and purposes and involve the types of personal data and categories of Data Subjects set out in this Part 2 of schedule 1.

- a. SUBJECT-MATTER OF PROCESSING:  
Any and all information provided by the Client for the purposes of Buddy and the Client carrying out the parties' respective obligations in accordance with these Terms & Conditions.
- b. DURATION OF THE PROCESSING:  
The duration of the Contract.
- c. NATURE AND PURPOSE OF THE PROCESSING:  
The collection, recording, organisation, storage, retrieval, erasure and destruction of Protected Data for the purposes of Buddy and the Client carrying out the parties' respective obligations in accordance with these Terms & Conditions.
- d. TYPE OF PERSONAL DATA:  
Name, address, telephone number, email address of the Client, and any and all information provided by the Client.

**38. Technical and organisational security measures**

Buddy shall implement and maintain the following technical and organisational security measures to protect the Protected Data:

- 38.1. In accordance with the Data Protection Laws, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of the processing of the Protected Data to be carried out under or in connection with the Contract, as well as the risks of varying likelihood and severity for the rights and freedoms of natural persons and the risks that are presented by the processing, especially from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed, Buddy shall implement appropriate technical and organisational security measures appropriate to the risk, including as appropriate those matters mentioned in Articles 32(1)(a) to 32(1)(d) (inclusive) of the GDPR.
- 38.2. The Client acknowledges and agrees that Buddy may engage a third party service ("Microsoft" and any such learning management provider as may be engaged by Buddy from time to time, and "Hubspot") for the storage of Protected Data, and accordingly, the Protected Data may be stored on servers outside the United Kingdom.